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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DEATH WISH COFFEE, LLC,

Plaintiff,

v.

DEATH BEFORE DECAF PTY. LTD.,

Defendant.

Case No.: 1:23-CV-7605-GHW

STIPULATED CONSENT JUDGMENT

On August 28, 2023, Plaintiff Death Wish Coffee LLC (“Plaintiff”) filed this action against Defendant Death Before Decaf Pty., Ltd. (“Defendant”) for trademark infringement, false designation of origin, unfair competition, and declaratory judgment under federal and state law. Plaintiff is the owner of the valid federally registered trademarks DEATH WISH COFFEE CO. (U.S. Reg. No. 4605090) and DEATH WISH COFFEE CO. & Design (U.S. Reg. No. 4605090), which it has used continuously in the United States in connection with the sale and marketing of coffee products since at least 2011. The parties wish to resolve this dispute, and have agreed to, and respectfully request that the Court enter, the following relief. Accordingly, it is hereby ORDERED, ADJUDGED and DECREED as follows:

1. Judgment is entered in favor of Plaintiff on its claims for federal trademark infringement (15 U.S.C. § 1114), false designation of origin (15 U.S.C. § 1125(a)), unfair competition under New York common law, and declaratory judgment (28 U.S.C. §§ 2201-2202). Notwithstanding the above Defendant does not admit liability and no damages are owed to Plaintiff.

2. Defendant is permanently enjoined from producing, publishing, advertising, making, or distributing, marketing, selling, offering for sale, or promoting packaging, advertising, promotional material, social media, internet content, or any other such marketing device in United States commerce bearing the mark DEATH BEFORE DECAF or any other trademark, tagline, brand, trade name or other mark including the term “death” in connection with coffee, coffee beans, coffee pods or any products or services related to coffee, including, without limitation, merchandise or café services. Defendant shall not cooperate with, or encourage, aid, or assist any third party in conduct prohibited by this Paragraph.

3. For clarity, Defendant is not enjoined from operating a website or engaging in social media using the mark DEATH BEFORE DECAF, or any other trademark, tagline, brand, trade name or other mark including the term “death,” in connection with coffee, coffee beans, coffee pods or any products or services related to coffee, including, without limitation, merchandise or café services that is accessible to United States citizens, provided the website or social media do not offer for sale, or sell any such products in the United States. For further clarity, Plaintiff reserves any and all rights and remedies with respect to Defendant’s use of any such trademark, tagline, brand, trade name or other mark, except as agreed with Defendant.

4. On Plaintiff’s claim for declaratory judgment, judgment is hereby entered that Defendant has no right to use or register DEATH BEFORE DECAF in the United States in connection with coffee or related products or services. As agreed by the parties, Defendant shall cooperate with Plaintiff in submitting a stipulated judgment to the Trademark Trial and Appeal Board in Opposition No. 91285093 sustaining the opposition and refusing registration of DEATH BEFORE DECAF.

5. Each party shall bear its own costs and attorneys’ fees in this action.

6. This Court shall retain jurisdiction over the subject matter and the parties to enforce the terms of this Judgment.

[Signatures on following page]

SO STIPULATED AND AGREED.

PLAINTIFF DEATH WISH COFFEE LLC:

Dated: December 21, 2023

DocuSigned by:

3B35A7363DB8493...
Tom Ennis, CEO

Dated: December 21, 2023



Douglas S. Curran, Esq.
Attorney for Plaintiff

DEFENDANT DEATH BEFORE DECAF PTY. LTD:

Dated: December 22, 2023

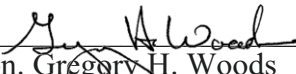

Carl Fricker, CEO

Dated: December 22, 2023


Maria Luisa Palmese, Esq.
Attorney for Defendant

IT IS SO ORDERED:

Dated: December 26, 2023


Hon. Gregory H. Woods
United States District Judge